

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE ANTHONY JOHNSON,

Plaintiff,

v.

Case No. 20-cv-12422
Hon. Matthew F. Leitman

HATATU ELUM, MICHELLE PARSONS,
JEREMY HOWARD, and T. KISOR,

Defendants.

/

ORDER DIRECTING SERVICE OF THE COMPLAINT

Plaintiff Dwayne Anthony Johnson is a state prisoner in custody of the Michigan Department of Corrections. On August 18, 2020, Plaintiff filed a *pro se* civil rights against four employees of the Michigan Department of Corrections. (*See* Compl., ECF No. 1, PageID.1-2.) The complaint alleges that the defendants retaliated against Plaintiff by transferring him to another prison because he assisted another prisoner with some legal work and filed a grievance against defendant Hatatu Elum, the prison librarian. (*See id.*, PageID.7.)

Plaintiff did not prepay the filing fee when he filed his complaint. Nor did he apply for leave to proceed without prepayment of the filing fee. However, on September 15, 2020, Plaintiff filed an identical complaint in this district and prepaid the filing fee for that case. *See Johnson v. Elum, et al.*, No. 20-cv-12733 (E.D. Mich.

Sept. 15, 2020). That case was assigned to the Honorable Gershwin A. Drain, who concluded that Plaintiff's complaint was duplicative of the complaint in this case and that Plaintiff was trying to pay the filing fee for this case. Accordingly, Judge Drain closed his case and ordered the Clerk of Court to apply the filing fee to this case. The filing fee was then applied to this case. *See* docket entry dated October 27, 2010.

Now that the fee has been paid in full, Plaintiff is responsible for serving the complaint and a summons on each defendant. Fed. R. Civ. P. 4(c)(1).¹ The Court is not required to order the United States Marshal to serve the complaint, because Plaintiff is not proceeding *in forma pauperis* under 28 U.S.C. § 1915. Fed. R. Civ. P. 4(c)(3); E.D. Mich. L.R. 4.1(b).

To facilitate service, Plaintiff must complete a summons for each defendant and submit the completed summonses to the Clerk of this Court. *See* E.D. Mich. L.R. 4.1(a) ("A party requesting the issuance of any process or who initiates a proceeding in which the issuance of process is required by statute, rule, or order must prepare all required forms. Where necessary, the party must present the process to the Clerk for signature and sealing."). Upon receipt of the completed summonses,

¹ Ordinarily, a plaintiff must serve his or her complaint within ninety days of the date that the complaint was filed. Fed. R. Civ. P. 4(c)(1), 4(m). If the plaintiff shows good cause for his or her failure to serve the complaint within ninety days, the court must extend the time for service for an appropriate period. Fed. R. Civ. P. 4(m).

the Clerk of the Court will issue the summonses and return them to Plaintiff so that he can serve a summons and a copy of his complaint on each defendant.

Accordingly, **IT IS ORDERED** that the Clerk of Court shall mail four blank summonses to Plaintiff with a copy of this order.

IT IS FURTHER ORDERED that Plaintiff shall complete one summons for each defendant and then mail the four completed summonses to the Clerk of this Court at 231 West Lafayette Blvd., Detroit, MI 48226.

IT IS FURTHER ORDERED that, upon receipt of the completed summonses, the Clerk of Court shall issue the summonses and return them to Plaintiff.

IT IS FURTHER ORDERED that Plaintiff shall serve a signed and sealed summons and a copy of his complaint on each of the defendants. Because more than sixty days have already elapsed since the filing of the complaint, the Court **ORDERS** Plaintiff to serve the complaint on the defendants within **thirty (30) days** of receipt of the signed and sealed summonses from the Clerk of the Court.

IT IS SO ORDERED.

/s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: November 3, 2020

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 3, 2020, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764